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Secrt. II-27—100,000—21-8-52.

Revenue (1948) Department.

Ms. SERIES.

G.O. No.11

Dated:1st April 1948

[Despatch Abstract.]

Tax - Madras General Sales Tax Act, 1939 - (Viragapatam) - Messrs. Pentapathy Lakshmanaswami and another - Dealers in groundnut and oil - Assessment for 1944-45 - Orders passed. Petition

REVENUE DEPARTMENT

Subject

Madras General Sales Tax Act, 1939 - Vizagapatam - Messrs. Pantapati Lakshmanaswami and Satyanarayana Murthi - Groundnut merchants - Assessment for 1944-45 - Levy of compounding fee - Petition to Government - Report submitted.

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Station: Madras Ref.T-8076/47-3, Dated 29-1-1948

From

Janab Mohamed S.M. Hussain Saheb Bahadur,
Additional Joint Secretary, Board of Revenue, Chepauk

S. Ranganathan Esq., O.B.E., I.C.S.,
Commissioner of Land Revenue and Commercial Taxes

Read: Government Endorsement No.668-N/47-1 Revenue, d/29-10-47
From the Commercial Tax Officer, Vizagapatam, Rc.4530/47, dated 29th November 1947 and 21st December 1947.

Reference:

In resubmitting the petition received with the endorsement from the Government cited above, the Board submits the following report:-

2. The petitioners are dealers in groundnut and groundnut oil and they are also registered manufacturers thereof. For the year 1944-45, they returned a gross turnover of Rs.22,87,344-0-3 and claimed rebate on a sum of Rs.9,96,560-0-9 representing the purchase value of groundnut crushed into oil and sold. The Deputy Commercial Tax Officer disallowed the rebate and also fixed the taxable turnover at Rs.26,00,000/- to the best of his judgment for the reason that they did not account for 7,184 tins of groundnut oil and 485 bags of groundnut kernel. The offence of suppressing the turnover covered by these goods was compounded in a sum of Rs.1000/-. On appeal, the Commercial Tax Officer confirmed the assessment as well as the Levy of compounding fee. In their revision petition to the Board, the petitioners claimed a rebate and also cancellation of the compounding fee levied. Considering the gravity of the defects noticed, the Board considered that there was no case for interference but however allowed exemption on a turnover of Rs.58,413-9-0 for the reason that the sales in respect of this sum took place outside the province, though the petitioners did not raise this contention in the revision petition but only before the Commercial Tax Officer, when the revision petition was sent to him for remarks.

3. In their petition to Government, the dealers claim exemption on the following five items of turnover:-

(1) Rs.8,56,526-9-5 - relating to the purchase value of groundnut converted into oil

(2) Rs.12,870 - relating to the value of 990 tins of oil included in the petitioners' turnover

(3) Rs.1000/- - Compounding fee levied for the offence of wilful submission of incorrect return.

(4) Rs.2,724 - Sales tax collected

(5) Rs.139-13-0 - Charity paid by the dealers

(6) Rs.17,016-2-9 - representing cartage, cooly, processing and weighment charges.

The claims in respect of items (1) to (3) were made in the revision petition to the Board, while items 4(a), 4(b) and (5) are new. They are dealt with below:-

p.t.o.

Item (1): Rebate on this turnover was refused by the Board as the petitioners did not submit the accounts as required in rule 18(3) of T.O. & A. rules which is mandatory. The refusal is also supported by the instructions in Government Memorandum No.3134-KN/47-2, dated 11-8-1947.

Item (2): While satisfactorily explaining the omissions of other items of oil exported, the petitioners failed to account for 990 tins of oil. The value of these tins had therefore to be included in the taxable turnover.

Item (3): A compounding fee of Rs.1000/- was levied for the offence of wilful submission of incorrect returns which is an offence under section 15(a) of the Act. Considering the fact, that the petitioners, who were able to explain a major portion of the items omitted, are still unable to account for 990 tins of oil, it is not unreasonable to presume that the petitioners have omitted the value of above goods wilfully. The claim in respect of this item was therefore rejected by the Board.

Item 4(a): This amount represents the sales tax collected. The Board submits that the petitioners are not eligible for exemption on this item as the sales tax levied by a dealer is part of the aggregate amount for which goods are sold and therefore part of the turnover (vide G.O.Ms.No.72 Revenue, dated 12-2-1944).

Items 4(b) and 5: As regards these items, the Board submits that the claims for exemption will have to be allowed in view of the instructions in Government Revenue Department Memorandum No.3106/47-2, dated 4-8-1947 as it is reported by the Commercial Tax Officer that these charges have been shown separately in their bills.

Sd/
For Joint Secretary

To the Secretary to Government (Revenue Department) (with a petition in original).

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p.t.o.

GOVERNMENT OF MADRAS

(Abstract)

Tax - Madras General Sales Tax Act, 1939 - (Vizagapatam) - Messrs. Pentapathy Lakshmanaswami and another - Dealers in ground-nut and oil - Assessment for 1944-45 - Petition - Orders passed.

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2. The petitioner is referred to the Board of Revenue for orders on his petition.

(By Order of His Excellency the Governor)

V. K. Rao,
Deputy Secretary to Government.

To the Board of Revenue (Commercial Taxes)
To the Petitioners (para 2 only)

(True copy)

R. Thiagarajan 24.12
Office Assistant,
Madras Record Office.

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